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Report 23-0011

September 14, 2023

To: Board of Commissioners
El Pueblo de Los Angeles Historical Monument Authority

From: Arturo Chavez, General Manager
El Pueblo de Los Angeles Historical Monument

Subject: Issue notice to pay rent or quit to Casa Golondrina, Inc. for W-17A and W-17B

Summary:

Casa Golondrina, Inc. ("Casa Golondrina") is a California corporation that was formed at the direction of Bertha and David Gomez in August 2021 in anticipation of acquiring and reopening La Golondrina Café, which had been operating at Olvera Street spaces W-17A and W-17B (collectively, the "Premises"). Effective February 28, 2022, Casa Golondrina assumed the concession agreements for the Premises, with an obligation to pay rent starting on March 1, 2022. Casa Golondrina has never paid rent or opened La Golondrina Café. Its non-payment of rent constitutes a default under the concession agreements, including under Section 21.1.2. As a result, the concession agreements and California law authorize the City to issue a notice to Casa Golondrina to pay rent or quit the Premises, with the accompany rights to terminate the concession agreements and recover possession of the Premises to competitively bid it to another operator.



Background:

La Golondrina Café was previously operated by La Golondrina Café, Inc. Ltd., a California corporation managed by Vivien Bonzo. The café closed in March 2020 at the start of the COVID-19 pandemic, and Ms. Bonzo sought to sell the business. The Gomezes, who operate a candy stand on Olvera Street, were the only vendors on Olvera Street to express interest in buying the business. According to the Gomezes, they entered into an agreement to purchase the business on July 30, 2021. They also created Casa Golondrina in anticipation of acquiring and reopening the business. Assignment of the underlying concession agreements for the Premises to Casa Golondrina required various City approvals, and assignment of the agreements to Casa Golondrina was effective on February 28, 2022.

Pursuant to the concession agreements, monthly rent for the Premises came due starting on March 1, 2022. Base rent for space W-17A started at \$10,056.09, increasing every July 1, based on the Consumer Price Index (CPI), and base rent for space W-17B started at \$2,140.16, also increasing by CPI every July 1. The concession agreements also require Casa Golondrina to pay monthly common area maintenance fees (“CAM”) of \$1,801.08 for space W-17A and \$632.52 for space W-17B. Section 6.3 of the concession agreements provides that Casa Golondrina’s obligation to pay rent “is based solely on [its] possession of the Premises.” Casa Golondrina has had possession of the Premises since the assignment.

Casa Golondrina has never paid rent or reopened La Golondrina Café. Casa Golondrina has alleged that on April 25, 2022, it had a general building inspection of the Premises by a licensed plumbing contractor that revealed plumbing issues. Casa Golondrina contended that the City was responsible for fixing any plumbing issues, and the City disagreed. Among other things, the concession agreements are specific with respect to any obligations of the City for plumbing, providing in relevant part that “[i]f at any time during the Term of this Concession Agreement, **any regulatory or municipal agency determines that repair or construction of . . . main plumbing lines . . . is necessary to bring the Premises into compliance with applicable building codes**, City shall correct such non-compliance at its sole cost and expense.” (Concession Agreement § 18.1 (emphasis added).) Casa Golondrina has never provided the City with any determination by a regulatory or municipal agency that repair of the plumbing was needed to bring the Premises into compliance with applicable building codes. The City’s inspections have not indicated that the plumbing is in need of repair. In addition, any obligations to repair the plumbing on behalf of the City do not relieve Casa Golondrina of its obligation to pay rent, which is based on its possession of the Premises. Although the concession

agreements contemplate the availability of potential rent abatement or relocation assistance if the City becomes obligated to repair plumbing, those are separate rights, and no terms for rent abatement or relocation assistance are provided in the concession agreements.

As of September 1, 2023, outstanding base rent for space W-17A was approximately \$199,789 and for space W-17B was approximately \$42,517.64, for a total of \$242,306. That does not include outstanding CAM, which is a total of approximately \$46,000. It also does not include interest, which Section 6.5.1 of the concession agreements specifies accrues at the rate of 12% per year until paid, or late fees, which Section 6.5.2 of the concession agreements specifies is 10% of the overdue amount for each late payment that is not paid within 10 days after the due date.

Recommendation:

Because of the non-payment of rent, it is recommended that the Board authorize the issuance of a 30-day notice directing Casa Golondrina to pay a prior year of base rent or quit the Premises, with the accompanying right to terminate the concession agreements and recover possession of the Premises. A 30-day notice is substantially longer than what is required by the concession agreements or California law.